

## Message Text

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R 141456Z JUN 77

FM AMEMBASSY ACCRA

TO SECSTATE WASHDC 8550

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EO 11652: GDS

TAGS: PGOV, GH

SUBJ: PROPOSED STRUCTURE FOR UNION GOVERNMENT

REF: ACCRA 4361

1. SUMMARY: AS ENVISAGED BY TWO GHANAIAN JURISTS, UNION GOVERNMENT WOULD INCLUDE A HEAD OF STATE, COUNCIL OF STATE, AND A BICAMERAL LEGISLATURE. ACHEAMPONG WOULD BE HEAD OF STATE FOR THREE YEARS BUT WOULD THEN HAVE TO STAND FOR REELECTION. END SUMMARY.

2. WE HAVE OBTAINED A COPY OF A CONSTITUTIONAL PROPOSAL FOR UNION GOVERNMENT, DRAWN UP BY JUSTICES C.K. COUSSEY AND ROBERT HAYFORD-BENJAMIN. PROPOSAL WAS SENT TO ACHEAMPONG IN EARLY MAY 1977. HE WAS REPORTEDLY FAVORABLY IMPRESSED WITH IT AND SOME OF ITS RECOMMENDATIONS SEEM TO HAVE BEEN INCORPORATED IN HOUSE OF CHIEFS' PROPOSALS REPORTED REFTEL.

3. AS SEEN BY COUSSEY AND HAYFORD-BENJAMIN, MAIN ELEMENTS OF UNION GOVERNMENT WOULD BE AS FOLLOWS:

4. HEAD OF STATE: ..."THE PERSON WHO IMMEDIATELY

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BEFORE THE COMING INTO EFFECT OF THIS CONSTITUTION WAS CHAIRMAN OF THE SUPREME MILITARY COUNCIL SHALL BE THE FIRST PARAMOUNT RULER (HEAD OF STATE) FOR A PERIOD OF THREE YEARS AND SHALL BE ELIGIBLE FOR REELECTION FOR A SIMILAR PERIOD." HEAD OF STATE, ALSO REFERRED TO AS PARAMOUNT RULER, PRESIDENT OR BY THE TITLE "OSAGYEFO", WOULD NORMALLY (I.E.,

AFTER ACHEAMPONG) BE ELECTED BY HOUSE OF CHIEFS AND HOUSE OF REPRESENTATIVES AND WOULD HAVE TO BE A PARAMOUNT CHIEF IN HIS OWN RIGHT. EXECUTIVE AUTHORITY OF GHANA WOULD REST WITH HIM AND ALL EXECUTIVE ACTS OF THE GOVERNMENT WOULD BE TAKEN IN HIS NAME.

5. COUNCIL OF STATE: THIS WOULD ADVISE THE PARAMOUNT RULER AND WOULD BE RESPONSIBLE FOR NATIONAL SECURITY AS WELL. IT WOULD INCLUDE CHAIRMAN OF THE HOUSE OF CHIEFS, PRIME MINISTER, CHIEF OF DEFENSE STAFF, JUDICIAL COMMISSIONER, CHAIRMAN OF THE MILITARY ADVISORY COUNCIL AND SPEAKER OF THE HOUSE OF REPRESENTATIVES.

6. PARLIAMENT: LEGISLATIVE POWERS WOULD REST WITH A UNION PARLIAMENT MADE UP OF THE HOUSE OF CHIEFS AND HOUSE OF REPRESENTATIVES. LEGISLATION WOULD BE INITIATED BY THE LATTER AND WOULD COME INTO FORCE AFTER PASSING BOTH HOUSES AND RECEIVING ASSENT OF PARAMOUNT RULER. HOUSE OF CHIEFS WOULD CONSIST OF THE ASANTEHENYE AND ALL PARAMOUNT CHIEFS IN GHANA. HOUSE OF REPRESENTATIVES WOULD DRAW ONE MEMBER FROM EACH OF 140 TRADITIONAL AREA CONSTITUENCIES AND WOULD ELECT A SPEAKER AND DEPUTY SPEAKER TO PRESIDE. THE PRINCIPLE OF REPRESENTATION ON THE BASIS OF POPULATION, HOWEVER, IS ACKNOWLEDGED WITH THE PROVISION THAT AN ELECTORAL COMMISSIONER SHOULD DETERMINE WITHIN THREE MONTHS OF THE MEETING OF THE FIRST PARLIAMENT, WHETHER ADDITIONAL MEMBERS SHALL BE SENT BY ANY CONSTITUENCY.

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7. COUNCIL OF MINISTERS: TO INCLUDE A PRIME MINISTER AND NOT MORE THAN TWENTY-ONE MINISTERS WHO SHALL NOT RPT NOT BE MEMBERS OF PARLIAMENT. MILITARY ADVISORY COUNCIL WOULD APPROVE APPOINTMENT OF ANY SERVING MILITARY OFFICER TO COUNCIL. BODY WOULD DETERMINE GENERAL POLICY OF THE GOVERNMENT AND BE RESPONSIBLE TO PARLIAMENT WHICH COULD DISMISS THEM BY VOTE OF NO CONFIDENCE.

8. JUDICIARY: PROPOSALS CALL FOR JUDICIAL COMMISSIONER, APPOINTED BY PARAMOUNT RULER; A SUPERIOR COURT OF JUDICATURE, CONSISTING OF A HIGH COURT AND COURT OF APPEAL; AND AN ATTORNEY-GENERAL AS CHIEF LEGAL ADVISOR OF THE GOVERNMENT.

9. THIS OUTLINE PRECEDED BY THREE INTRODUCTORY PAGES WHOSE MAIN ARGUMENT IS THAT GOVERNMENT STRUCTURES "MUST REFLECT THE SOCIAL PATTERNS OF SOCIETIES THEY ARE INTENDED FOR" AND NOT COPY THOSE OF OTHER

SOCIETIES. U.S. IS CITED AS EXAMPLE OF FORMER BRITISH COLONY DEVISING ITS OWN NON-BRITISH CONSTITUTION. OTHER POINTS MADE: BOTH ONE-PARTY (NKRUMAH) AND MULTI-PARTY (BUSIA) STATES HAVE BEEN UNSUCCESSFUL IN GHANA'S HISTORY, HENCE "CASE FOR A GOVERNMENT OF NATIONAL UNITY IS OVERWHELMING"; POLICE SHOULD NOT BE INCLUDED IN ANY FUTURE GOVERNMENT, BUT SHOULD LIMIT THEMSELVES TO ENFORCING LAWS.

10. COMMENT: COUSSEY AND HAYFORN-BENJAMIN ARE WELL-KNOWN GHANAIAN JURISTS AND QUALIFIED TO DRAFT A CONSTITUTION. COUSSEY HAS BEEN WORKING ON CHIEFTAINCY PROBLEMS IN BRONG-AHAFO REGION FOR PAST FIVE YEARS. HAYFORN-BENJAMIN IS A LEGAL ADVISOR TO BISHOP ABEL MUZOREWA. THEIR PROPOSALS NO DOUBT HAVE GREAT APPEAL TO ACHEAMPONG SINCE, IF IMPLEMENTED, HE WOULD STAY IN POWER FOR ANOTHER THREE YEARS AT LEAST. HOWEVER, CONFIDENTIAL

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THEIR EMPHASIS ON THE KEY ROLE OF CHIEFS WOULD ASSURE THAT, BARRING A COUP, ANOTHER MILITARY MAN COULD NOT BECOME HEAD OF STATE AFTER ACHEAMPONG (UNLESS HE WERE COINCIDENTALLY A PARAMOUNT CHIEF IN HIS OWN RIGHT). SOME MILITARY PARTICIPATION IS ASSURED, HOWEVER, BY THE INCLUSION OF BOTH CHIEF OF DEFENSE STAFF AND CHAIRMAN OF MILITARY ADVISORY COUNCIL IN COUNCIL OF STATE AND POSSIBILITY OF OTHER MILITARY IN THE CABINET.

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11. ALTHOUGH PRINCIPAL EMPHASIS OF INTRODUCTORY STATEMENT AND PRESUMABLY A MAJOR PURPOSE OF THIS PROPOSAL IS TO AVOID SLAVISH COPYING OF METROPOLITAN MODELS, THE FINAL PRODUCT IS STILL REMARKABLY CLOSE TO THE WESTMINSTER STRUCTURE. PARTICULARLY STRIKING IN THIS DAY AND AGE IS CASTING OF TRADITIONAL CHIEFS IN ROLE OF BRITISH ARISTOCRACY AND MONARCHY IN BOTH HEAD OF STATE AND UPPER HOUSE POSITIONS. NOTABLE AND PERHAPS SIGNIFICANT DEPARTURE FROM BRITISH MODEL IS THE PROVISION THAT CABINET MINISTERS SHALL NOT BE MEMBERS OF PARLIAMENT. THIS COULD HAVE THE EFFECT OF CREATING WHAT WOULD AMOUNT ALMOST TO AN "EXECUTIVE BRANCH" ON A MORE AMERICAN THAN BRITISH MODEL, SIGNIFICANTLY INCREASING THE INDEPENDENCE OF BOTH THE HEAD OF STATE AND THE CABINET. EVEN THOUGH THE PARLIAMENT COULD DISMISS MINISTERS BY VOTE OF NO CONFIDENCE, THE HEAD OF STATE CAN APPOINT MINISTERS FROM ANY WALK OF GHANAIAN LIFE AND HE HIMSELF CANNOT BE DISMISSED BY PARLIAMENT.

12. ALTHOUGH INTRODUCTION MAKES MUCH OF THE NEED TO AVOID EITHER ONE-PARTY OR MULTI-PARTY MODELS, STRUCTURE DOES NOT DEAL DIRECTLY WITH THIS ISSUE. IT PROVIDES, FOR EXAMPLE, FOR EACH TRADITIONAL AREA TO "SEND" ONE OR MORE REPRESENTATIVES BUT SAYS NOTHING

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ABOUT HOW THEY ARE TO BE CHOSEN.

13. ON THE WHOLE IT IS CLEAR THAT COUSSEY/HAYFORD-BENJAMIN PAPER IS MORE OF A SKETCH THAN A BLUEPRINT FOR A NEW GOVERNMENT. ITS PRECISE RELATIONSHIP TO HOUSE OF CHIEFS' PROPOSAL FOR BICAMERAL LEGISLATURE (REFTEL) REMAINS MURKY. WHATEVER THE POPULAR APPEAL OF ITS OTHER ELEMENTS, RESERVING THE TOP SLOT FOR ACHEAMPONG WILL NOT STRIKE A RESPONSIVE CHORD IN MANY GHANAIAN HEARTS. SMITH

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